

REMARKS/ARGUMENTS

Claims 1 thru 18 remain in this application.

Claim 14-16 have been withdrawn as the result of an earlier restriction requirement.

In view of the examiner's earlier restriction requirement, applicant retains the right to present claims 14-16 in a divisional application.

In response to the Office Action of November 5, 2003, Applicant requests re-examination and reconsideration of this application for patent pursuant to 35 U.S.C. 132.

Rejections under 35 USC 112

Claims 1-13 and 17-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is vague and indefinite. In line 8, the recitation of "adapted to" is not clear as to how the matrix has been modified to immobilize the biologically active ligand to the substrate. The claim is also vague as to what biological activity is maintained by the matrix. The last three lines of the claim is not clear as to how the ligand is "constructed and arranged" to produce a visual indication.

Claim 9 is vague and indefinite. In lines 6-7, the recitation of "adapted to" is not clear as to how the scavenger antibody has

been modified to be immobilized on the substrate. The claim is also not clear as to what is the "threshold concentration". The last part of the claim is also not clear as to how the ligand is prevented from binding with a detector antibody until the concentration of the toxic substance surpasses the threshold concentration.

Claim 10 is vague. In lines 5-6, the recitation of "the genetic characteristics" lacks antecedent support. In line 7, the recitation of "mutations thereof" is vague and indefinite as to what mutations are being referred to.

Claim 17 is vague and indefinite. In line 8, the recitation of "adapted to" is not clear as to how the matrix has been modified to immobilize the biologically active ligand to the substrate. The claim is also vague as to what biological activity is maintained by the matrix. The last three lines of the claim is not clear as to how the ligand is "constructed and arranged" to produce a visual indication.

Claim 18 is vague and indefinite. In line 6, the recitation of "adapted to" is not clear as to how the matrix has been modified to immobilize the biologically active ligand to the substrate. The claim is also vague as to what biological activity is maintained by the matrix. The last three lines of the claim is not clear as to how the ligand is "constructed and arranged" to produce a visual indication.

The claims have now been amended in order to remove the indefiniteness pointed out by the Examiner.

SUMMARY

In light of the foregoing remarks and amendment to the claims, it is respectfully submitted that the Examiner will now find the claims of the application allowable. Favorable reconsideration of the application is courteously requested.

Respectfully submitted,



Ferris H. Lander
Registration # 43,377

McHale & Slavin, P.A.
2855 PGA Boulevard
Palm Beach Gardens, FL 33410
(561) 625-6575 (Voice)
(561) 625-6572 (Fax)

\\Ns2\client files\1900-1999\1965 - Toxin Alert\1965_000021 - UT PAT\Amendments\Response template to OA
11-5-2003.wpd